

Notice of Allowability

Application No.

10/606,314

Examiner

Hargobind S. Sawhney

Applicant(s)

VANDERSCHUIT, CARL R.

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to The response filed on October 18, 2005.
2. ☒ The allowed claim(s) is/are 1-10, 12-23, 25-36 and 38.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

1. The response filed on October 18, 2005 been entered. Accordingly, claims 1, 7, 16 and 28 have been amended; and claims 11, 24 and 37 have been canceled.

Terminal Disclaimer

2. The Terminal Disclaimer filed on January 24, 2005 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of pending application 10/606325 filed on June 25, 2003 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Reasons for Allowance

3. Provision of the terminal disclaimer filed on January 24, 2005 has overcome double patenting rejections of claims C. Therefore, claims 1-10, 12-23, 25-36 and 38 are allowed.
4. Claims 1-10, 12-23, 25-36 and 38 are allowed over prior art of record.

The prior art of record, including Hanley (US Patent No.: 6,733,150 B1) and Marston (US Patent Application Pub. No.: 2003/0151910 A1), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose a lighted headwear combining:

- at least one black-light LED directing light through a black-light responsive portion of a bill of a lighted headwear as recited in the amended independent claims 1, 16 and 28.

The above-indicated combination, including a lighted headwear comprising a bill with a black-light responsive portion, is unique invention.

Neither combined nor individual teaching of Hanley ('150 B1) and Marston (US Patent Application Pub. No.: US 2003/0151910 A1), discloses a headwear having a bill with a portion responsive to the black light as claimed by the applicant.

Therefore, claims 1-10, 12-23, 25-36 and 38 are allowed over prior art.

Claims 2-10 and 12-15 are necessarily allowed because of their dependency on the allowed base Claim 1.

Claims 17-23 and 25-27 are necessarily allowed because of their dependency on the allowed base Claim 16

Claims 29-36 and 38 are necessarily allowed because of their dependency on the allowed base Claim 28.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S Sawhney whose telephone number is 571 272 2380. The examiner can normally be reached on 8:15 - 4:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571 272 2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS/

12/30/2005


ALI ALAVI
PRIMARY EXAMINER